

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADVANCED ANALYTICS, INC.,

Plaintiff,

-against-

CITIGROUP GLOBAL MARKETS, INC.
f/k/a SALOMON SMITH BARNEY, INC.,
and THE YIELD BOOK INC., f/k/a
SALOMON ANALYTICS, INC.,

Defendants.

No. 04 Civ. 3531 (LTS) (SLC)

STIPULATION AND [PROPOSED] ORDER

Citigroup Global Markets, Inc. and The Yield Book, Inc. (collectively, “Defendants”), by their attorneys, Cleary Gottlieb Steen & Hamilton LLP, and the American Prospect and Brandon Smith (collectively, the “Proposed Intervenors”), by their attorneys, Public Justice, P.C., hereby stipulate and agree as follows in this stipulation (the “Stipulation”):

WHEREAS, on August 19, 2019, the Proposed Intervenors filed their Motion to Intervene and Unseal Court Records (the “Motion”) (ECF No. 328);

WHEREAS, on September 3, 2019, Defendants notified the Court that Defendants and the Proposed Intervenors had agreed that Defendants’ response to the Motion would be due October 4, 2019;

WHEREAS, Plaintiff Advanced Analytics, Inc. (“Plaintiff” and, together with Defendants, the “Parties”) has not filed a response to the Motion;

WHEREAS, Defendants and the Proposed Intervenors are engaged in discussions to determine whether they are able to resolve the Motion without intervention from the Court;

WHEREAS, while reserving all rights, Proposed Intervenor and Defendants will work together to determine whether they are able to identify any additional sealed filings that Defendants agree to provide as a Permitted Filing (as defined herein); and

WHEREAS, by email dated October 3, 2019, Defendants provided Plaintiff with a copy of the Stipulation and solicited Plaintiff's consent, and as of this filing, Defendants have not received a response,

NOW, THEREFORE, it is hereby stipulated and agreed as follows:

1. The Proposed Intervenor are authorized to receive any filings that all Parties have agreed do not contain Confidential Discovery Material as defined in the Stipulation and Protective Order Governing Confidential Material, dated March 22, 2005 (ECF No. 25) or that have such Confidential Discovery Material redacted (any such filing, a "Permitted Filing"). Any information received by Proposed Intervenor pursuant to this paragraph 1 shall be deemed public information, with no restriction on the disclosure or publication of such information.

2. Within five business days after the Court enters an order adjourning *sine die* Defendants' deadline to respond to the Motion, Defendants will provide the Proposed Intervenor with the following documents with any Confidential Discovery Material redacted: (i) Memorandum of Law of Defendants Citigroup Global Markets, Inc. and the Yield Book Inc. in Support of Their Motion for Summary Judgment, dated April 5, 2013; (ii) Plaintiff's Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment Pursuant to May 7, 2014 Order, dated May 28, 2014; (iii) Reply Memorandum of Law of Defendants Citigroup Global Markets, Inc. and the Yield Book Inc. in Support of Their Motion for Summary Judgment, dated February 23, 2014; (iv) Plaintiff's Memorandum of Law in Support of its Motion for Sanctions Pursuant to F.R.C.P. 56(h) and the Court's Inherent Power Against

Defendants and Defense Counsel Cleary Gottlieb Steen & Hamilton LLP, dated June 27, 2019; and (v) Memorandum of Law in Support of Defendants (I) Motion to Strike Plaintiff's Rule 56(h) Motion and (II) Motion for Sanctions, dated July 11, 2019, *provided however* that Defendants shall not be in violation of their obligations under this paragraph 2 if, within the five business day period provided for herein, Defendants notify the Proposed Intervenor that they have sought, but not yet received, Plaintiff's confirmation that the Permitted Filings redact Plaintiff's Confidential Discovery Information (if any).

3. Any party, as well as Proposed Intervenor, are authorized to file the Permitted Filings, with any Confidential Discovery Information redacted, on the public docket.

4. The Proposed Intervenor agree that any Permitted Filings provided to the Proposed Intervenor is subject to Federal Rule of Evidence 408, for the limited purpose of resolving the Motion, and that the production of any Permitted Filings shall not constitute a waiver by Defendants of any rights or defenses, including with respect to their opposition to the Motion in the event the Parties are unable to resolve the matter amicably.

5. Defendants and Proposed Intervenor agree that no Party, nor the Proposed Intervenor, shall be deemed to have waived any rights or defenses by providing or accepting a Permitted Filing pursuant to this Stipulation.

6. In the event that the Defendants and the Proposed Intervenor are not able to resolve the motion to unseal amicably, the Proposed Intervenor will notify the Court and the Parties, and Defendants shall have twenty-one days from the date of such notice to respond to the Motion.

Dated: October 4, 2019
New York, New York

Pursuant to section 8.5(b) of the Electronic Case Filing Rules & Instructions for the United States District Court for the Southern District of New York, the use of conformed electronic signatures is with the consent of all signatories to this filing.

/s/Jennifer D. Bennett

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*Attorneys for Defendants Citigroup Global Markets
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SO ORDERED:

The Honorable Sarah L. Cave
United States Magistrate Judge